

**Minutes of the Carlisle Board of Health  
October 18, 2011**

Present: Board Members Jeff Brem (Chair), Bill Risso, Cathy Galligan; Donna Margolies; Mark Caddell; also present: Linda Fantasia (Agent), Ann Marie Brako (Mosquito); Jonathan Stevens (Planning Board), Kevin Berquist

The meeting was called to order at 7:00 pm. by acting chairman Caddell.

**Board Reorganization** – tabled until later in the meeting.

**Minutes** – The Board reviewed and edited the minutes.

It was moved (Galligan) and seconded (Risso) to approve the minutes of 8/16/11 as amended. Motion passed 4-0-0.  
It was moved (Risso) and seconded (Galligan) to approve the minutes of 9/20/11 as amended. Motion passed 4-0-0.

**Bills** – office supplies, salaries and help wanted ad. It was moved (Risso) and seconded (Margolies) to approve the bills as presented. Motion passed 4-0-0. Brem arrived and took over as chairman

**Administrative Reports**

Blackboard Connect - There will be a follow up training held for Blackboard Connect users. Board members are invited to participate.

Clivus Composting Toilet O & M Reports for 180 Prospect St. 984 Great Brook, Ferns Country Store were reviewed by the Board. All systems are working well.

FY13 Budget – Preliminary guidance from Fincom is 0% increase for operating budgets exclusive of wages and salaries. Personnel Board is reviewing a cost of living allowance (COLA). The Board's Fincom liaison is Barbara Bjornsen. Brem suggested meeting with the Fincom to discuss the potential shortfall for FY13. For the past two years the Board has been supplementing its operating account with grant funding. This will not be possible next year. The Board will emphasize the total amount of contributions that the Board has used to supplement its budget over the last few years.

Public Water Supplies (PWS) – the Board agreed with the annual list provided by DEP.

Mosquito Complaint – A parent was concerned about the number of mosquitoes on the playing fields. Fantasia spoke with Superintendent Mehaffey. Teachers are aware of the problem. If the situation is very bad, the school holds indoor recess. Cold weather should help along with personal protection.

CHNA 2012 Grant – Up to two grants of \$15,000 are available to do a Healthy Community needs assessment. Fantasia suggested evaluating trails for handicap access. This is a new ADA requirement that the Conservation Commission is looking into. Other ideas might involve a community garden at Benfield or the need for a permanent sharps disposal. Fantasia and Galligan agreed to attend the grant workshop on 11/3/11. The planning grant should involve as many collaborators as possible. Galligan said the TURI (Toxic Use Reduction Initiative) Grant was not something easily applicable to Carlisle because of its focus on toxics reduction. The CHNA grant is a possibility.

School Building Project – all asbestos removal records will be kept at the Health Dept in case there is a public records request.

**BOARD REORGANIZATION**

Brem initiated a discussion to see what positions interested members – chairman, vice-chairman, clerk/treasurer. Brem said he was willing to continue as chairman, unless another member wanted to do it. Board members felt the current organization worked well. The Board agreed to designate duties so that each member could contribute in his area of expertise. Fantasia said that some issues require Board authority which is typically handled by the chairman.

Fielding all requests to one person takes time depending upon availability. Brem suggested that if the chairman is not readily available requests should be forwarded to the vice-chair and then clerk/treasurer after a short time. Brem agreed to continue as chairman but noted that this would need to change next year. Risso agreed to stay on as clerk/treasurer and Caddell as vice-chairman. Galligan did not feel she could commit to the time requirement this year and Margolies is only in her first year as a board member.

Galligan moved the following nominations for a period of one year: Jeff Brem as chairman, Mark Caddell as Vice-chairman, Bill Risso as Clerk/treasurer. Nominations were closed, seconded and unanimously voted by the Board 5-0-0.

**ADMINISTRATIVE ASSISTANT VACANCY** – The position was advertised in the Mosquito at the request of the Personnel Board. The Personnel Board did not feel Lyman's application as an internal candidate met all of the requirements of public notice. Risso, Galligan and Fantasia reviewed the resumes submitted. Three candidates, including Lyman, applied. Two were interviewed and one candidate cancelled the interview. Both candidates interviewed were well qualified, but Lyman's experience with public health as a former board member was a highlight. Galligan checked both personal and business references for Lyman. Comments were very favorable. The job consists of 30 hours per pay period, typically 15 hrs per week. The Personnel Board will need to set the pay rate. There are no changes in the job description or grade classification.

It was moved (Risso) and seconded (Galligan) to offer the position of Health Department Administrative Assistant to Bobby Lyman. Motion passed 5-0-0.

**40 TRILLIUM WAY – GROUND SOURCE HEAT PUMP (GSHP) APPLICATION.** Present for the meeting was Paul Dickey, DC Development and Michael Gray, Gray Co. Plumbing.

The proposed installation is for three closed loop geothermal wells for a house under construction. A GSHP location plan dated 10/17/11, equipment specifications and heating and cooling calculations dated 7/22/11 prepared by Gray Plumbing were submitted to the Board. DEP issued Underground Injection Control (UIC) # MAS31A051204-5CL on 9/23/11 conditional upon meeting requirements of Mass DEP Guidelines for Ground Source Heat pump Wells and local permit requirements. The wells will be drilled by George Rollins of Rollins Well Drillers, a MA Certified Driller. The GSHP will be installed by the Gray Plumbing Company. The antifreeze solution used will be *Enviroil*, which is DEP approved. The bore holes will be approximately 300' deep to provide sufficient BTU's to heat and cool the house. There will be two heat pumps in the basement. The 1 1/4" lines will be 4' below grade, sealed and grouted according to state guidelines. It is more energy efficient to use vertical rather than horizontal wells given the contours of the land and the heating/cooling requirements. Gray explained how they calculated the number of vertical trenches required to support the size of the house. He estimated a need of 90,000 BTU's for the house. Galligan asked about the DEP-required signage. Gray was not aware of this specific requirement but said that all of the equipment is properly labeled and the unit will have a nameplate and the antifreeze will be identified. Galligan pointed out the requirement in the Guideline and suggested that all requirements be reviewed and compliance assured. Gray agreed. Gray explained how the wells would be drilled, cases, grouted and sealed. GPS locations will be on file with DEP. The Board requires a copy of the Certificate of Compliance issued by the designer. Gray agreed to forward copies of all records to the Board. There were no other questions or comments.

It was moved (Risso) and seconded (Caddell) to approve the installation of three geothermal wells for 40 Trillium Way, Carlisle MA, conditional upon meeting all DEP Guideline Requirements and final approval by DEP and appropriate signage on the equipment as required. Motion passed 5-0-0.

Dickey agreed that the Board could visit the site to see the installation. He will notify the office.

The Board briefly discussed its position on open v closed loop wells. Risso does not favor open loop wells because of a potential for contaminating Carlisle's sole water supply. Brem thought geothermal wells could be of value to Carlisle home owners since every property has a well. Galligan would like to see annual water quality monitoring for open loop wells. The Board is continuing to work on local guidelines for GSHP wells.

**PLANNING BOARD NOISE POLICY – FINAL DRAFT.** All of the Board recommendations had been incorporated. The Board briefly reviewed the comments submitted. Galligan had attended the Planning Board meeting and felt the construction management plan was a well defined document. This has been one of the Board's concerns. She noted that flexibility might be beneficial for some of the requirements. For example, rather than taking large rocks off site to break up, in some cases they might be used as a buffer or site characteristics might make it feasible to address onsite. It was suggested that the language be rephrased as "including but not requiring" certain actions. This should allow Planning more discretion. The Board agreed with the updated revisions. A public hearing is scheduled for 11/21/11.

Galligan and Risso felt a lot of work had gone into the policy and it was well done. Brem noted that the policy had resulted from a single problem but it was a good start to help avoid future problems. Stevens said the focus was clearly on hoe ramming activity which had caused the problem last summer. By including the policy and the Planning Board's rules and regulations, the policy does not interfere with the authority of the Board of health to address nuisance. Stevens pointed out that a Concord citizen had also offered input that was included in the policy. Brem agreed that it is always good to do community outreach prior to the public hearing. Caddell wanted to know the process for making changes. Stevens said rules and regulations can be done at a Planning Board meeting although it is customary to advertize for public input. Rules and regulations do not require town meeting approval. There is a provision for an emergency waiver.

It was moved (Risso) and seconded (Galligan) to support the proposed Construction Noise Policy prepared by the Planning Board, draft dated 9/26/11. Motion passed 5-0-0.

**GUEST HOUSE POLICY DISCUSSION** – Fantasia informed the Board that a resident had appealed the Building Commissioner's decision to issue a building permit for the proposed guest house at 389 River Road which included a kitchen to the Zoning Board of Appeals (ZBA). At the last meeting the Board had approved enlarging an existing three bedroom septic system to a four bedroom system to accommodate the renovations. Galligan had asked to put the guest house policy on the agenda after learning more after the Board of Health meeting about how these requests had been handled in the past. Her vote at the last meeting was based on information provided by the Building Commissioner who was present for the meeting. Based on that input she agreed to a vote and voted in favor of the permit. Having later learned that there was a long standing precedent on guest houses which differed significantly from the opinion of the Building Commissioner, she would have preferred a fuller discussion of the issue before voting.

Brem said that the Board has a very narrow focus on these matters which is based on Title 5 compliance. It is not the Board of Health's responsibility to make zoning decisions. In the River Road case, the Board could only look at the number of bedrooms which is how Title 5 defines design flows for a residence. The system expansion was appropriate for the number of bedrooms proposed. Use of the dwelling is a zoning not public health issue. Galligan noted that in previous decisions, the Board only approved a guest house if it did not contain a kitchen in keeping with zoning that a guest house must be temporary in nature. The Building Inspector was required to inspect these dwellings annually. Risso noted that John Luther, the current Building Commissioner, has a different interpretation which basically overturns this policy. An added complication is that the Board's approval of any permit is always conditional upon meeting all other local and state conditions. In this case there is an appeal of the Building Commissioner's issuance of a building permit, so the question before the Board is whether its permit should be held until such time as the issue is adjudicated. The Building permit was issued on 10/6/11. The appeal was filed 10/18/11. Fantasia was not certain when it would be heard by the ZBA.

Risso did not like that the Board of Health was being put in the position of making zoning decisions when reviewing a permit. Galligan agreed that the need for guidance should be part of the Board's discussion with ZBA. Risso said that the primary purpose of Carlisle's zoning bylaws is groundwater protection as a drinking water supply for the entire town. Galligan also noted that the zoning bylaws have some very specific language dealing with accessory apartments and affordable accessory apartments. It does not make sense that a guest house is not subject to the same oversight or rationale. Brem said that Board acted upon the advice of the Building Commissioner and in applying Title 5. Galligan felt there was more to the issue and she would have preferred having fuller knowledge of the precedent involved. Brem agreed that there is the problem of what happens to the structure when the property is sold. It could become a second residence on a single lot. This is a separate issue from managing waste water per

Title 5. Both Galligan and Risso agreed that the recent decision by the Building Commissioner was a big change from previous decisions. Brem would like the other permitting boards to understand that the Board of Health is limited to looking at Title 5 which counts bedrooms. Galligan felt that the town had already deemed what it wanted in these situations through various opinions and decisions even if they were not clearly defined in the zoning bylaw. Fantasia said there was a 1984 opinion from the ZBA which defined a guest house as a temporary dwelling which did not include a kitchen. This position was further enforced with statements and minutes. This became the basis for deciding guest house applications even though the definition is not clear in the zoning bylaw. Although less prescriptive than a regulation, these statements about guest houses impart a legitimacy to the premise of not having a kitchen. She also noted that compliance with a uniform state code does not necessarily guarantee the best interest of the town. This is why local approving authorities, such as the Board of Health, are authorized to make local regulations that are more in keeping with the characteristics and goals of the community. Risso agreed that although zoning does not have a written regulation defining a guest house, the concept has been defined through a de facto decision making process. These decisions are consistent with the rationale behind two acre zoning in Carlisle. Stevens commented why zoning bylaw was not changed. Risso suggested it might have been due to the fact that everyone was already in agreement.

Kevin Berquist of 170 Lowell Road asked to address the Board. He filed the appeal with ZBA. He referred to the 1984 opinion that a guest house does not require a kitchen because guests take their meals with the family. This opinion was upheld in 2002 and 2007. The Building Commissioner is entitled to his opinion, but it should not automatically overturn what the town has agreed upon for many years. If a guest house with a kitchen is allowed now, it will be difficult to deny future applicants. A kitchen was an easy means of determining whether a dwelling was being used as a second residence. Berquist questioned how the town would now enforce the temporary nature of a guest house. The Board should not depend on the size of the lot as a deterrent to building a guest house. Back in 2002 the owner of a two acre property abutting his applied for a guest house which in reality would have been a second residence. Berquist is concerned that this application will again be brought forward which is why he is an aggrieved party.

Brem again stated that the Board of Health cannot act on zoning issues. Galligan added that the Board should not view an application in isolation but consider it within the overall goals of the town. Risso agreed that an integrated approach is of more value to the town. Brem said MGL C 111 s 31 grants broad authority to the Board of Health but within a public health perspective. He questioned whether the Board may want to change its regulations. Galligan would prefer seeking clarification from ZBA and Planning Board. She is very concerned that the River Road decision was a 180° turn in direction from past Board of Health judgments.

Brem asked about the other decisions. He noted that the 2007 Bellows Hill filing requested a garbage grinder variance because no kitchen was planned. It was pointed out that the application stated a kitchen would not be allowed in a guest house. Fantasia said that another property on River/Monument Road was constructed without a kitchen and the building inspector was required to do an annual inspection. A kitchen was later installed when a change in lot lines created a separate lot.

The Board agreed that more information should be obtained from planning, zoning and building. The Board needs better guidance to deal with future applications. Galligan felt that if more information had been provided at the River Road hearing she might have voted differently. Board members agreed that they acted based on the opinion of the Building Commissioner. They would have preferred a more formal opinion in writing, possibly from town counsel, due to the importance of the issue. Stevens said the Planning Board may be looking into the issue.

The Board agreed to send a memo to ZBA and Planning explaining the limitations on the Board's permit granting role and noting that the Board wants to work in concert with other land use permitting boards. As for releasing the construction permit, the Board agreed that it could be a problem if work on the system were allowed to go forward and the building permit was not upheld by the ZBA.

It was moved (Risso) and seconded (Galligan) to hold the Sewage Disposal Construction Permit for system upgrade at 389 River Road, for the proposed guest house for a period not to exceed six months or until the ZBA makes a decision on the appeal and if such appeal is not upheld that the permit should be released within one business day of

the filing of the decision and if the appeal is upheld the applicant must return to the Board of Health for further action. Motion passed 5-0-0.

The Board agreed to discuss the matter again following the decision of the ZBA.

## **DISCUSSION ITEMS**

**Farmer's Market** – two complaints were received about a vendor selling jam preserves at the market. One complainant said the jam was syrupy and had a bad odor. She threw it out. The second complainant mentioned unsanitary conditions observed with the same vendor at a market in another community. Fantasia notified Randy Phelps who inspected the market at the Harvest Fair on the Green on 10/15/11. No problems were noted with the exception of one vendor holding unrefrigerated eggs and lack of labeling on some jams and jellies. The overall market was well run and organized. Sandwich preparation in the church kitchen was good. Fantasia will forward the report to the market managers and a letter to the vendor about labeling requirements. The Board discussed the cost of doing inspections. The Board had agreed to waive a permit fee for the market which is a local non-profit organization unless town expenses were involved. The Board will pay for the market inspection but subtract it from the 10% giveback that goes to the general fund every month. Risso recommended listing the amount of the giveback and any other expenses that the Board has paid when meeting with Fincom. Fantasia will prepare a summary.

**Drug Take Back** – two successful collections were conducted last year by DEA. A third is scheduled for October 29<sup>th</sup> and the Carlisle Police Dept has agreed to participate. Risso and Galligan volunteered to assist Linda Fantasia with the collection.

**Geothermal Well Procedures** – Galligan will work with Lyman to prepare a “how to” guide for homeowners and installers. The state guidelines could use some clarification and the process could be clearer. Brem felt using a single well to both supply and heat a house was a good thing environmentally. Risso has concerns about the possibility of contaminants entering the water supply. Galligan pointed out that systems that need a bleed to maintain temperature often discharge to a different aquifer. The Board expects to see more applications if the state encourages these wells. It would be good for the Board to be familiar with their operation and any long term impacts to the environment. Fantasia said there will be a presentation on geothermal wells at the MHOA conference. She will try to get some answers on the process and what the Board should be considering.

There was no further business discussed. Meeting voted to adjourn at 9:50 pm.

Respectfully submitted,

Linda M. Fantasia  
Recorder